

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Public Aid Code is amended by
5 changing Section 5-2 and adding Section 12-4.38 as follows:

6 (305 ILCS 5/5-2) (from Ch. 23, par. 5-2)

7 Sec. 5-2. Classes of Persons Eligible. Medical assistance
8 under this Article shall be available to any of the following
9 classes of persons in respect to whom a plan for coverage has
10 been submitted to the Governor by the Illinois Department and
11 approved by him:

12 1. Recipients of basic maintenance grants under
13 Articles III and IV.

14 2. Persons otherwise eligible for basic maintenance
15 under Articles III and IV, excluding any eligibility
16 requirements that are inconsistent with any federal law or
17 federal regulation, as interpreted by the U.S. Department
18 of Health and Human Services, but who fail to qualify
19 thereunder on the basis of need or who qualify but are not
20 receiving basic maintenance under Article IV, and who have
21 insufficient income and resources to meet the costs of
22 necessary medical care, including but not limited to the
23 following:

1 (a) All persons otherwise eligible for basic
2 maintenance under Article III but who fail to qualify
3 under that Article on the basis of need and who meet
4 either of the following requirements:

5 (i) their income, as determined by the
6 Illinois Department in accordance with any federal
7 requirements, is equal to or less than 70% in
8 fiscal year 2001, equal to or less than 85% in
9 fiscal year 2002 and until a date to be determined
10 by the Department by rule, and equal to or less
11 than 100% beginning on the date determined by the
12 Department by rule, of the nonfarm income official
13 poverty line, as defined by the federal Office of
14 Management and Budget and revised annually in
15 accordance with Section 673(2) of the Omnibus
16 Budget Reconciliation Act of 1981, applicable to
17 families of the same size; or

18 (ii) their income, after the deduction of
19 costs incurred for medical care and for other types
20 of remedial care, is equal to or less than 70% in
21 fiscal year 2001, equal to or less than 85% in
22 fiscal year 2002 and until a date to be determined
23 by the Department by rule, and equal to or less
24 than 100% beginning on the date determined by the
25 Department by rule, of the nonfarm income official
26 poverty line, as defined in item (i) of this

1 subparagraph (a).

2 (b) All persons who, excluding any eligibility
3 requirements that are inconsistent with any federal
4 law or federal regulation, as interpreted by the U.S.
5 Department of Health and Human Services, would be
6 determined eligible for such basic maintenance under
7 Article IV by disregarding the maximum earned income
8 permitted by federal law.

9 3. Persons who would otherwise qualify for Aid to the
10 Medically Indigent under Article VII.

11 4. Persons not eligible under any of the preceding
12 paragraphs who fall sick, are injured, or die, not having
13 sufficient money, property or other resources to meet the
14 costs of necessary medical care or funeral and burial
15 expenses.

16 5.(a) Women during pregnancy, after the fact of
17 pregnancy has been determined by medical diagnosis, and
18 during the 60-day period beginning on the last day of the
19 pregnancy, together with their infants and children born
20 after September 30, 1983, whose income and resources are
21 insufficient to meet the costs of necessary medical care to
22 the maximum extent possible under Title XIX of the Federal
23 Social Security Act.

24 (b) The Illinois Department and the Governor shall
25 provide a plan for coverage of the persons eligible under
26 paragraph 5(a) by April 1, 1990. Such plan shall provide

1 ambulatory prenatal care to pregnant women during a
2 presumptive eligibility period and establish an income
3 eligibility standard that is equal to 133% of the nonfarm
4 income official poverty line, as defined by the federal
5 Office of Management and Budget and revised annually in
6 accordance with Section 673(2) of the Omnibus Budget
7 Reconciliation Act of 1981, applicable to families of the
8 same size, provided that costs incurred for medical care
9 are not taken into account in determining such income
10 eligibility.

11 (c) The Illinois Department may conduct a
12 demonstration in at least one county that will provide
13 medical assistance to pregnant women, together with their
14 infants and children up to one year of age, where the
15 income eligibility standard is set up to 185% of the
16 nonfarm income official poverty line, as defined by the
17 federal Office of Management and Budget. The Illinois
18 Department shall seek and obtain necessary authorization
19 provided under federal law to implement such a
20 demonstration. Such demonstration may establish resource
21 standards that are not more restrictive than those
22 established under Article IV of this Code.

23 6. Persons under the age of 18 who fail to qualify as
24 dependent under Article IV and who have insufficient income
25 and resources to meet the costs of necessary medical care
26 to the maximum extent permitted under Title XIX of the

1 Federal Social Security Act.

2 7. Persons who are under 21 years of age and would
3 qualify as disabled as defined under the Federal
4 Supplemental Security Income Program, provided medical
5 service for such persons would be eligible for Federal
6 Financial Participation, and provided the Illinois
7 Department determines that:

8 (a) the person requires a level of care provided by
9 a hospital, skilled nursing facility, or intermediate
10 care facility, as determined by a physician licensed to
11 practice medicine in all its branches;

12 (b) it is appropriate to provide such care outside
13 of an institution, as determined by a physician
14 licensed to practice medicine in all its branches;

15 (c) the estimated amount which would be expended
16 for care outside the institution is not greater than
17 the estimated amount which would be expended in an
18 institution.

19 8. Persons who become ineligible for basic maintenance
20 assistance under Article IV of this Code in programs
21 administered by the Illinois Department due to employment
22 earnings and persons in assistance units comprised of
23 adults and children who become ineligible for basic
24 maintenance assistance under Article VI of this Code due to
25 employment earnings. The plan for coverage for this class
26 of persons shall:

1 (a) extend the medical assistance coverage for up
2 to 12 months following termination of basic
3 maintenance assistance; and

4 (b) offer persons who have initially received 6
5 months of the coverage provided in paragraph (a) above,
6 the option of receiving an additional 6 months of
7 coverage, subject to the following:

8 (i) such coverage shall be pursuant to
9 provisions of the federal Social Security Act;

10 (ii) such coverage shall include all services
11 covered while the person was eligible for basic
12 maintenance assistance;

13 (iii) no premium shall be charged for such
14 coverage; and

15 (iv) such coverage shall be suspended in the
16 event of a person's failure without good cause to
17 file in a timely fashion reports required for this
18 coverage under the Social Security Act and
19 coverage shall be reinstated upon the filing of
20 such reports if the person remains otherwise
21 eligible.

22 9. Persons with acquired immunodeficiency syndrome
23 (AIDS) or with AIDS-related conditions with respect to whom
24 there has been a determination that but for home or
25 community-based services such individuals would require
26 the level of care provided in an inpatient hospital,

1 skilled nursing facility or intermediate care facility the
2 cost of which is reimbursed under this Article. Assistance
3 shall be provided to such persons to the maximum extent
4 permitted under Title XIX of the Federal Social Security
5 Act.

6 10. Participants in the long-term care insurance
7 partnership program established under the Illinois
8 Long-Term Care Partnership Program Act who meet the
9 qualifications for protection of resources described in
10 Section 15 of that Act.

11 11. Persons with disabilities who are employed and
12 eligible for Medicaid, pursuant to Section
13 1902(a)(10)(A)(ii)(xv) of the Social Security Act, as
14 provided by the Illinois Department by rule. In
15 establishing eligibility standards under this paragraph
16 11, the Department shall, subject to federal approval:

17 (a) set the income eligibility standard at not
18 lower than 350% of the federal poverty level;

19 (b) exempt retirement accounts that the person
20 cannot access without penalty before the age of 59 1/2,
21 and medical savings accounts established pursuant to
22 26 U.S.C. 220;

23 (c) allow non-exempt assets up to \$25,000 as to
24 those assets accumulated during periods of eligibility
25 under this paragraph 11; and

26 (d) continue to apply subparagraphs (b) and (c) in

1 determining the eligibility of the person under this
2 Article even if the person loses eligibility under this
3 paragraph 11.

4 12. Subject to federal approval, persons who are
5 eligible for medical assistance coverage under applicable
6 provisions of the federal Social Security Act and the
7 federal Breast and Cervical Cancer Prevention and
8 Treatment Act of 2000. Those eligible persons are defined
9 to include, but not be limited to, the following persons:

10 (1) persons who have been screened for breast or
11 cervical cancer under the U.S. Centers for Disease
12 Control and Prevention Breast and Cervical Cancer
13 Program established under Title XV of the federal
14 Public Health Services Act in accordance with the
15 requirements of Section 1504 of that Act as
16 administered by the Illinois Department of Public
17 Health; and

18 (2) persons whose screenings under the above
19 program were funded in whole or in part by funds
20 appropriated to the Illinois Department of Public
21 Health for breast or cervical cancer screening.

22 "Medical assistance" under this paragraph 12 shall be
23 identical to the benefits provided under the State's
24 approved plan under Title XIX of the Social Security Act.
25 The Department must request federal approval of the
26 coverage under this paragraph 12 within 30 days after the

1 effective date of this amendatory Act of the 92nd General
2 Assembly.

3 13. Subject to appropriation and to federal approval,
4 persons living with HIV/AIDS who are not otherwise eligible
5 under this Article and who qualify for services covered
6 under Section 5-5.04 as provided by the Illinois Department
7 by rule.

8 14. Subject to the availability of funds for this
9 purpose, the Department may provide coverage under this
10 Article to persons who reside in Illinois who are not
11 eligible under any of the preceding paragraphs and who meet
12 the income guidelines of paragraph 2(a) of this Section and
13 (i) have an application for asylum pending before the
14 federal Department of Homeland Security or on appeal before
15 a court of competent jurisdiction and are represented
16 either by counsel or by an advocate accredited by the
17 federal Department of Homeland Security and employed by a
18 not-for-profit organization in regard to that application
19 or appeal, or (ii) are receiving services through a
20 federally funded torture treatment center. Medical
21 coverage under this paragraph 14 may be provided for up to
22 24 continuous months from the initial eligibility date so
23 long as an individual continues to satisfy the criteria of
24 this paragraph 14. If an individual has an appeal pending
25 regarding an application for asylum before the Department
26 of Homeland Security, eligibility under this paragraph 14

1 may be extended until a final decision is rendered on the
2 appeal. The Department may adopt rules governing the
3 implementation of this paragraph 14.

4 15. Family Care Eligibility.

5 (a) A caretaker relative who is 19 years of age or
6 older when countable income is at or below 185% of the
7 Federal Poverty Level Guidelines, as published
8 annually in the Federal Register, for the appropriate
9 family size. A person may not spend down to become
10 eligible under this paragraph 15.

11 (b) Eligibility shall be reviewed annually.

12 (c) Caretaker relatives enrolled under this
13 paragraph 15 in families with countable income above
14 150% and at or below 185% of the Federal Poverty Level
15 Guidelines shall be counted as family members and pay
16 premiums as established under the Children's Health
17 Insurance Program Act.

18 (d) Premiums shall be billed by and payable to the
19 Department or its authorized agent, on a monthly basis.

20 (e) The premium due date is the last day of the
21 month preceding the month of coverage.

22 (f) Individuals shall have a grace period through
23 the month of coverage to pay the premium.

24 (g) Failure to pay the full monthly premium by the
25 last day of the grace period shall result in
26 termination of coverage.

1 (h) Partial premium payments shall not be
2 refunded.

3 (i) Following termination of an individual's
4 coverage under this paragraph 15, the following action
5 is required before the individual can be re-enrolled:

6 (1) A new application must be completed and the
7 individual must be determined otherwise eligible.

8 (2) There must be full payment of premiums due
9 under this Code, the Children's Health Insurance
10 Program Act, the Covering ALL KIDS Health
11 Insurance Act, or any other healthcare program
12 administered by the Department for periods in
13 which a premium was owed and not paid for the
14 individual.

15 (3) The first month's premium must be paid if
16 there was an unpaid premium on the date the
17 individual's previous coverage was canceled.

18 The Department is authorized to implement the
19 provisions of this amendatory Act of the 95th General
20 Assembly by adopting the medical assistance rules in effect
21 as of October 1, 2007, at 89 Ill. Admin. Code 125, and at
22 89 Ill. Admin. Code 120.32 along with only those changes
23 necessary to conform to federal Medicaid requirements,
24 federal laws, and federal regulations, including but not
25 limited to Section 1931 of the Social Security Act (42
26 U.S.C. Sec. 1396u-1), as interpreted by the U.S. Department

1 of Health and Human Services, and the countable income
2 eligibility standard authorized by this paragraph 15. The
3 Department may not otherwise adopt any rule to implement
4 this increase except as authorized by law, to meet the
5 eligibility standards authorized by the federal government
6 in the Medicaid State Plan or the Title XXI Plan, or to
7 meet an order from the federal government or any court.

8 In implementing the provisions of this amendatory Act of
9 the 96th General Assembly, the Department is authorized to
10 adopt only those rules necessary, including emergency rules.
11 Nothing in this amendatory Act of the 96th General Assembly
12 permits the Department to adopt rules or issue a decision that
13 expands eligibility for the FamilyCare Program to a person
14 whose income exceeds 185% of the Federal Poverty Level as
15 determined from time to time by the U.S. Department of Health
16 and Human Services, unless the Department is provided with
17 express statutory authority.

18 The Illinois Department and the Governor shall provide a
19 plan for coverage of the persons eligible under paragraph 7 as
20 soon as possible after July 1, 1984.

21 The eligibility of any such person for medical assistance
22 under this Article is not affected by the payment of any grant
23 under the Senior Citizens and Disabled Persons Property Tax
24 Relief and Pharmaceutical Assistance Act or any distributions
25 or items of income described under subparagraph (X) of
26 paragraph (2) of subsection (a) of Section 203 of the Illinois

1 Income Tax Act. The Department shall by rule establish the
2 amounts of assets to be disregarded in determining eligibility
3 for medical assistance, which shall at a minimum equal the
4 amounts to be disregarded under the Federal Supplemental
5 Security Income Program. The amount of assets of a single
6 person to be disregarded shall not be less than \$2,000, and the
7 amount of assets of a married couple to be disregarded shall
8 not be less than \$3,000.

9 To the extent permitted under federal law, any person found
10 guilty of a second violation of Article VIIIA shall be
11 ineligible for medical assistance under this Article, as
12 provided in Section 8A-8.

13 The eligibility of any person for medical assistance under
14 this Article shall not be affected by the receipt by the person
15 of donations or benefits from fundraisers held for the person
16 in cases of serious illness, as long as neither the person nor
17 members of the person's family have actual control over the
18 donations or benefits or the disbursement of the donations or
19 benefits.

20 (Source: P.A. 94-629, eff. 1-1-06; 94-1043, eff. 7-24-06;
21 95-546, eff. 8-29-07; 95-1055, eff. 4-10-09.)

22 (305 ILCS 5/12-4.38 new)

23 Sec. 12-4.38. Special FamilyCare provisions.

24 (a) The Department of Healthcare and Family Services may
25 submit to the Comptroller, and the Comptroller is authorized to

1 pay, on behalf of persons enrolled in the FamilyCare Program,
2 claims for services rendered to an enrollee during the period
3 beginning October 1, 2007, and ending on the effective date of
4 any rules adopted to implement the provisions of this
5 amendatory Act of the 96th General Assembly. The authorization
6 for payment of claims applies only to bona fide claims for
7 payment for services rendered. Any claim for payment which is
8 authorized pursuant to the provisions of this amendatory Act of
9 the 96th General Assembly must adhere to all other applicable
10 rules, regulations, and requirements.

11 (b) Each person enrolled in the FamilyCare Program as of
12 the effective date of this amendatory Act of the 96th General
13 Assembly whose income exceeds 185% of the Federal Poverty
14 Level, but is not more than 400% of the Federal Poverty Level,
15 may remain enrolled in the FamilyCare Program pursuant to this
16 subsection so long as that person continues to meet the
17 eligibility criteria established under the emergency rule at 89
18 Ill. Adm. Code 120 (Illinois Register Volume 31, page 15854)
19 filed November 7, 2007. In no case may a person continue to be
20 enrolled in the FamilyCare Program pursuant to this subsection
21 if the person's income rises above 400% of the Federal Poverty
22 Level or falls below 185% of the Federal Poverty Level at any
23 subsequent time. Nothing contained in this subsection shall
24 prevent an individual from enrolling in the FamilyCare Program
25 as authorized by paragraph 15 of Section 5-2 of this Code if he
26 or she otherwise qualifies under that Section.

1 (c) In implementing the provisions of this amendatory Act
2 of the 96th General Assembly, the Department of Healthcare and
3 Family Services is authorized to adopt only those rules
4 necessary, including emergency rules. Nothing in this
5 amendatory Act of the 96th General Assembly permits the
6 Department to adopt rules or issue a decision that expands
7 eligibility for the FamilyCare Program to a person whose income
8 exceeds 185% of the Federal Poverty Level as determined from
9 time to time by the U.S. Department of Health and Human
10 Services, unless the Department is provided with express
11 statutory authority.

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.